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THE HONOURABLE DR JUSTICE V. ESWARAIAH

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W.P.NO. 19702 OF 2005

15.11.2005

1. Smt. K. Jayaprada W/o K. Nagendra, Aged about 26 years, Occ. House Wife, Resident of Renumakulapalli Village, Uravakonda Mandal, Anantapur Distric

..... PETITIOENR

AND

1. The district Collector, Anantapur.
2. The Joint Collector, Anantapur.
3. The Revenue Divisional Officer, Anantapur.
4. The Mandal Revenue Officer, Uravakonda Mandal, Anantapur District.
5. Smt. K. Nageswaramma, W/o K. Nagesh Babu, Resident of Renumakulapalli Vilalge, Uravakonda Mandal, Anantapur District.

...RESPONDENTS

COUNSEL FOR THE PETITIONER : O. MONOHAR REDDY, Advocate

COUNSEL FOR THE RESPONDENTS : G.P. FOR CIVIL SUPPLIES.

Gist :

- Head Note :

? CITATIONS :

Nil

THE HON'BLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO : 19702 of 2005

DATE: 15.11.2005

Between:

Smt. K. Jayaprada W/o K. Nagendra, Aged about 26 years, Occ. House Wife, Resident of Renumakulapalli Village, Uravakonda Mandal, Anantapur District.

Petitioner……..

And

1. The District Collector, Anantapur and others.

Respondents……..

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ORDER:

Heard the learned counsel appearing for the petitioner and also the learned

Government Pleader for Civil Supplies.

The erstwhile Fair Price Shop Dealer of Renumakulapalli Village of Anantapur District, submitted his resignation as Dealer, and therefore, the Revenue Divisional Officer, Anantapur, issued notification vide Rc.No. D1CS/1344/2001 dated 20.7.2004, duly reserving the said dealership of Renumakulapalli Village, Uravakonda Mandal, for BC (general) category fixing the last date for receipt of applications on or before 2.8.2004. In response to the said notification, five candidates viz., petitioner herein, (2) K. Nageswaramma (3) K. Jagadeesh (4) K. Naresh Babu and (5) K. B. Sreenivasulu, had applied within time. After considering the necessary documents and after obtaining the character and antecedents of the candidates from the Mandal Revenue Officer, Uravakonda, vide Rc.No. B/218/2004 dated 30.9.2004, the Revenue Divisional Officer, Anantapur has conducted interview on 30.10.2004 and all the above five candidates have attended the interview. After considering all the merits and demerits, the Revenue Divisional Officer, Anantapur v i d e proceedings in D.Dis.No. D1CS/1344/2001 dated 30.12.2004 held that the Petitioner herein and Mr. K. Jagadeesh alone possessed the requisite qualifications and they faired well in the interview, but however, he had selected Mr. K. Jagadeesh, who is more meritorious than the petitioner.

As against the said order of the Revenue Divisional Officer, Anantapur, appointing Mr. K. Jagadeesh as Fair Price Shop dealer of Renumakulapalli Village, Uravakonda Mandal, on permanent basis, the petitioner and the fifth respondent herein, filed an appeal before the Joint Collector, Anantapur. The appeals of both the petitioner and the fifth respondent were taken together and after hearing the said

Mr. K. Jagadeesh, the appeal was disposed of by an order dated 29.4.2005 in D.Dis.No. K4/ATP/52/05, stating that the said K. Jagadeesh was over-aged and his date of birth was 1.1.1964, and as per the orders of the Government, in G.O.Ms.No. 53 dated 6.10.2003, maximum age shall be 40 years, as on the date of the notification dated 20.7.2004. But the age of the said Mr. K. Jagadeesh was found to be 40 years 6 months 19 days and hence, he was over-aged. It was the case of the petitioner that the next successful qualified candidate is entitled to be appointed as Fair Price Shop Dealer. Instead of considering the said request, the Joint Collector, while setting aside the appointment of Mr. K. Jagadeesh as Fair Price Shop dealer, further directed to notify the vacancy afresh and fill it up at the earliest. Aggrieved by the said order, in so far as it went against the petitioner in not considering her claim for her appointment and in further directing to notify the vacancy afresh, the petitioner filed a revision before the District Collector, Anantapur and the same was dismissed in D.Dis No. K4/ATP/633/05 dated 23.8.2005, confirming the orders of the Joint Collector, Anantapur, on the ground that the notification dated 20.7.2004 issued by the Revenue Divisional Officer itself was quashed in appeal, by the Joint Collector, Anantapur.

I perused the order of the Joint Collector, Anantapur dated 29.4.2005. The notification dated 20.7.2004, inviting applications from eligible candidates to be appointed as Fair Price Shop dealer on permanent basis, was not set aside. Only the appointment of Mr. K. Jagadeesh was set aside and a further direction to notify the vacancy, afresh. It is stated that when once the appointment of one of the qualified candidate was set aside, the Joint Collector, Anantapur, ought to have

considered the next qualified candidate for appointment, which was the subject matter of the revision.

But the District Collector, Anantapur, without considering the said contention, erroneously came to the conclusion that since the notification dated 20.7.2004 itself was quashed, the claim of the petitioner for appointment as Fair Price Shop dealer could not be considered. As could be seen, the notification-dated 20.7.204 was not at all quashed by the Joint Collector. Merely because a direction was given to notify the vacancy afresh, it does not amount to quashing of notification itself as a whole. When the

appeal itself has been filed before the Revenue Divisional Officer claiming the right of the petitioner for appointment of Fair Price Shop dealer as she was one and only the eligible candidate, as such, she is entitled to be appointed as Fair Price Shop dealer because of her eligibility and also in view of the fact that she belongs to BC woman candidate, for whom the Fair Price Shop dealership was reserved. When there are only two eligible candidates and one candidate was found to be over-aged, there is no justification in rejecting the claim of the petitioner for appointment as Fair Price Shop dealer, on permanent basis.

In view of the above said facts, this Writ Petition is allowed as prayed for. No order as to costs.

V.ESWARAIAH, J

Date: 15.11.2005.

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